



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to AB 438 – County Free Libraries: Withdrawal (Williams)

MEETING DATE: April 20, 2011

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize the Mayor, on behalf of the City Council, to send a letter of opposition to AB 438 – County Free Libraries: Withdrawal (Williams).

BACKGROUND INFORMATION: The City was asked by the League of California Cities to oppose AB 438 pertaining to library services and send a letter of opposition regarding the same to Assembly Member Williams.

AB 438 requires voters to approve a city council's decision to provide library services through a private contractor. It undermines the ability of a city to operate efficiently and effectively. City council members routinely make decisions on contracts, policies and fiscal decisions that are essential to government functioning smoothly. Sometimes these decisions must take place in an expedited manner so as to balance the City's budget. Forcing a city put a contract to a vote at the next regularly scheduled election, which could be as long as 18 months or two years, could exacerbate an already bad fiscal situation for a city. In addition, these administrative decisions are exactly the type of decisions that council members are elected to make.

For these reasons, it is recommended that local governments oppose the proposed legislation.

FISCAL IMPACT: Not applicable at this time.

FUNDING AVAILABLE: Not applicable at this time.

A handwritten signature in black ink, appearing to read "K. Bartlam", written over a horizontal line.

Konradt Bartlam
City Manager

APPROVED:

A handwritten signature in black ink, appearing to read "K. Bartlam", written over a horizontal line.

Konradt Bartlam, City Manager

AB 438 (Williams) County Free Libraries: withdrawl.

Bill Summary:

AB 438 requires voters to approve a city council's decision to provide library services through a private contractor.

Background:

Public libraries are typically run by a city, county or special library district. In recent years, some local governments have opted to contract out the administration and operation of their public library.

In California, this has been done primarily done with public libraries that are financially ailing and largely by one company, Library Systems & Services, based in Maryland. Last fall, LSSI was hired by the City of Santa Clarita to provide administrative services and staffing for three public libraries that were considered "healthy" but for which the city council felt contracting out the services would ensure the long-term survival of the library.

When private companies have taken over library staffing and administration, generally no library services have been changed, however library staff that have been rehired, have shifted from their pension to a 401K.

Because of this, Ventura Readers **Book** Group and the SEIU have sponsored AB 438 to require a city to get voter approval of the city council decision to pull out of a county library system and contract out the services. The referendum would be on the city's next regularly scheduled ballot.

Staff Recommendation: Reaffirm existing League Oppose position.

Fiscal Impact: Likely minimal costs to the city for the referendum, but potentially significant costs to the city or existing library if the next regularly scheduled election is a year or more in the future.

League Policy:

- While the League is strongly supportive of a city's administrative authority, there is no specific policy on this issue.

Comments:

- ***Requirement of voter referendum is unlawful.*** The power of referendum, conferred by article 11, Section 9 of the California Constitution, applies "only to acts which are legislative in character and not to administrative or executive acts" (*Southwest Diversified, Inc. v. City of Brisbane* 229 Cal.App.3d 1548 (1991); *Simpson v. Hite* 36 Cal.2d 125 (1950)). AB 438 requires voters to approve a city

council's decision to provide library services through a private contractor. This type of council decision is considered "administrative" and is therefore not subject to referendum by the people.

- ***What other administrative decisions are potentially affected by this bill?*** AB 438 only requires a referendum on a decision to pull out of county library system and contract out those services. However, the precedent this bill would set potentially opens the door to look at the referendum of any administrative contractual decision made by a city council.
- ***Timing of decisions mandated in AB 438.*** City council members routinely make administrative decisions on contracts, policies and fiscal decisions that are essential to government functioning smoothly. Sometimes these decisions must take place in an expedited manner so as to balance the city's budget. Forcing a city to wait an extended period of time, until the ***next regularly scheduled election***, could exacerbate an already bad fiscal situation for the city.

Support/Opposition:

support:

Ventura Reader's Book Group (sponsor)

Service Employees International Union

Los Angeles Alliance for a New Economy (LANNE)

Oppose:

Library Systems & Services, LLC

League of California Cities

CITY COUNCIL

BOB JOHNSON, Mayor
JOANNE MOUNCE,
Mayor Pro Tempore
LARRY D. HANSEN
PHIL KATZAKIAN
ALAN NAKANISHI

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807
www.lodi.gov cityclerk@lodi.gov

KONRADT BARTLAM,
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

April 12, 2011

Assembly Member Das Williams
State Capitol, Room 6011
Sacramento, California 95814
Via Facsimile: (916) 319-2135

RE: AB 438 (Williams). County Free Libraries: Withdrawal (As Amended April 4, 2011)
NOTICE OF OPPOSITION

Dear Assembly Member Williams:

The City of Lodi must respectfully oppose your bill, AB 438, which would require voters to approve a city council's decision to provide library services through a private contractor. Our concerns are based on the following issues:

- AB 438 undermines the ability of a city to operate efficiently and effectively. City council members routinely make administrative decisions on contracts, policies and fiscal decisions that are essential to government functioning smoothly. Sometimes these decisions must take place in an expedited manner so as to balance the city's budget. Forcing a city put a contract to a vote at the next regularly scheduled election which could be as long as 18 months or 2 years, could exacerbate an already bad fiscal situation for the city.
- Role of Council Members. While we appreciate the intent to have voters weigh in on a city council decision relating to public contracts, we believe that these administrative decisions are exactly the type of decisions that council members are elected to make.

For the aforementioned reasons, the City of Lodi must respectfully oppose your bill.

Sincerely,

Bob Johnson
Mayor

C: Cameron Smyth, Chair, Assembly Local Government Committee (916-319-3958)
Kyra Ross, League of California Cities (916-658-8240)
William Webber, Assembly Republican Caucus (916-319-3902)